

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

D'ANDRE POWELL,  
Plaintiff,  
v.  
ROBERT LUNA, et al.,  
Defendants  
Case No. 2:22-cv-02626-DOC-JDE  
ORDER ACCEPTING FINDINGS  
AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE  
JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the records on file, including the operative Complaint (Dkt. 1) filed by D’Andre Powell (“Plaintiff”), the Motion to Dismiss the Complaint (Dkt. 12, “Motion”) and Request for Judicial Notice (Dkt. 13, “RJN”) filed by Defendants Robert Luna and Eric Matusak (“Defendants”), and the Report and Recommendation of the assigned United States Magistrate Judge (Dkt. 18, “Report”). No party filed timely written objections to the Report. The Report and Recommendation is approved and accepted.

Therefore, IT IS HEREBY ORDERED that:

1. The Motion (Dkt. 12) and RJD (Dkt. 13) are GRANTED and the Complaint is dismissed with leave to amend as set forth below;

- 1        2. The DOE defendants named in the Complaint are dismissed
- 2                  without prejudice; and
- 3        3. If Plaintiff still desires to pursue this action, he is ORDERED to
- 4                  file a First Amended Complaint within thirty (30) days from the
- 5                  date of this Order attempting to remedy the deficiencies described
- 6                  in the Report, with any responsive pleading by Defendant to such
- 7                  First Amended Complaint due twenty-one (21) days after the filing
- 8                  of such First Amended Complaint. A failure by Plaintiff to timely
- 9                  file a complaint First Amended Complaint may result in dismissal
- 10                 of this action for failure to prosecute and/or failure to comply with
- 11                 a Court order. See Fed. R. Civ. P. 41(b).

12                 IT IS SO ORDERED.

13                 Dated: December 6, 2022

14                   
15                 DAVID O. CARTER  
16                 United States District Judge